

General Information Letter: Explanation of computation of "double taxed income" for Indiana.

January 22, 2007

Dear:

This is in response to your letter dated October 15, 2006, which has been forwarded to me for review. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at [www. tax.illinois.gov](http://www.tax.illinois.gov).

In your letter you have stated the following:

It has been a number of years since the reciprocal agreement with the State of Indiana was voided. In this intervening period, the calculations for credit from Indiana have continued to fail to give Illinois residents the proper credit. This practice is apparently due to the fact that whoever set up the CR form, never had to pay tax to two states. If the person who created the CR form would figure it out, they would see that as an IL resident, we are asked to pay more tax than would be required in Illinois, but receive no credit for it. In my case, 94% of my income comes from the state of Indiana. Therefore, my credit should be 94% of my payment to the State of Indiana, not 94% of total income. In this case, for 2005, 94% would be \$980.42. But calculating it from form CR, you calculate the credit as being only \$892.43. And each year then ask for the difference, ignoring the fact that the tax rate for Indiana is higher. This practice has gone on for too long, and needs to be brought to attention of the authors of the form CR. Therefore, on the latest form you sent, I am again being asked to pay an extra \$57.00 in tax. Yet, in this particular year, I have already paid approximately \$88.00 to Indiana over what the tax would be in Illinois. I am tired of continually being cheated out of my credit for Indiana taxes. I want to for the year 2005, pay this tax in protest, as it appears otherwise, this inequity with any state with a higher tax rate will continue forever. Please give instructions regards getting this changed.

Response

Section 601(b)(3) of the Illinois Income Tax Act (35 ILCS 5/601) allows Illinois residents to claim a credit for taxes paid to another state on income that is also taxed by Illinois. That section also provides, in part:

The aggregate credit provided under this paragraph shall not exceed that amount which bears the same ratio to the tax imposed by subsections 201(a) and (b) otherwise due under this Act as the amount of the taxpayer's base income subject to tax both by such other state or states and by this State bears to his total base income subject to tax by this State for the taxable year.

As stated in your letter, approximately 94% of your income is taxed by Indiana. This provision limits your credit to the 94% of the Illinois income tax you would otherwise owe, which is \$949.

Accordingly, your credit cannot exceed \$892, which is 94% of \$949. The Schedule CR computes properly computes this limitation, and it would require an amendment to the statute to change the form.

If you wish to contest the tax liability resulting from this computation of the credit, you may pay the additional amount we determined and file a claim for refund pursuant to Section 909(d) of the Illinois Income Tax Act (35 ILCS 5/909) or you may pay that amount under protest as provided in the State Officers and Employees Money Disposition Act, 30 ILCS Act 230.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel – Income Tax